

# 1995 SESSION

INTRODUCED

LD4869743

## SENATE BILL NO. 994

Offered January 23, 1995

*A BILL to amend and reenact § 9-6.25:1 of the Code of Virginia and to amend the Code of Virginia by adding in Title 9 a chapter numbered 43, consisting of sections numbered 9-334 through 9-344, relating to the creation of the Commonwealth Competition Council and establishment of the Taxpayer Dividend Fund and the Productivity Improvement Revolving Fund.*

Patrons—Stosch, Calhoun, Schewel and Woods; Delegates: Morgan and Watkins

Referred to the Committee on General Laws

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 9-6.25:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a chapter numbered 43, consisting of sections numbered 9-334 through 9-344, as follows:**

§ 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

Advisory Board for the Department for the Deaf and Hard-of-Hearing

Advisory Board for the Department for the Aging

Advisory Board on Child Abuse and Neglect

Advisory Board on Medicare and Medicaid

Advisory Board on Occupational Therapy

Advisory Board on Physical Therapy to the Board of Medicine

Advisory Board on Rehabilitation Providers

Advisory Board on Respiratory Therapy to the Board of Medicine

Advisory Board on Teacher Education and Licensure

Advisory Council on Revenue Estimates

Advisory Council on the Virginia Business-Education Partnership Program

Appomattox State Scenic River Advisory Board

Aquaculture Advisory Board

Art and Architectural Review Board

(Effective until July 1, 1995) Board for the Visually Handicapped

Board of Directors, Virginia Truck and Ornamentals Research Station

Board of Forestry

Board of Military Affairs

Board of Rehabilitative Services

Board of Transportation Safety

Board of Trustees of the Family and Children's Trust Fund

Board of Visitors, Gunston Hall Plantation

Board on Veterans' Affairs

Catoctin Creek State Scenic River Advisory Board

Cave Board

Chickahominy State Scenic River Advisory Board

Clinch Scenic River Advisory Board

Coal Surface Mining Reclamation Fund Advisory Board

*Commonwealth Competition Council*

Council on Indians

Council on the Status of Women

Debt Capacity Advisory Committee

Emergency Medical Services Advisory Board

Falls of the James Committee

Film Office Advisory Board

Forensic Science Advisory Board

Goose Creek Scenic River Advisory Board

Governor's Council on Alcohol and Drug Abuse Problems

Governor's Mined Land Reclamation Advisory Committee

Hemophilia Advisory Board

Human Services Information and Referral Advisory Council

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60	Industrial Development Services Advisory Board
61	Interagency Coordinating Council on Housing for the Disabled
62	Interdepartmental Board of the State Department of Minority Business Enterprise
63	Laboratory Services Advisory Board
64	Local Advisory Board to the Blue Ridge Community College
65	Local Advisory Board to the Central Virginia Community College
66	Local Advisory Board to the Dabney S. Lancaster Community College
67	Local Advisory Board to the Danville Community College
68	Local Advisory Board to the Eastern Shore Community College
69	Local Advisory Board to the Germanna Community College
70	Local Advisory Board to the J. Sargeant Reynolds Community College
71	Local Advisory Board to the John Tyler Community College
72	Local Advisory Board to the Lord Fairfax Community College
73	Local Advisory Board to the Mountain Empire Community College
74	Local Advisory Board to the New River Community College
75	Local Advisory Board to the Northern Virginia Community College
76	Local Advisory Board to the Patrick Henry Community College
77	Local Advisory Board to the Paul D. Camp Community College
78	Local Advisory Board to the Piedmont Virginia Community College
79	Local Advisory Board to the Rappahannock Community College
80	Local Advisory Board to the Southwest Virginia Community College
81	Local Advisory Board to the Thomas Nelson Community College
82	Local Advisory Board to the Tidewater Community College
83	Local Advisory Board to the Virginia Highlands Community College
84	Local Advisory Board to the Virginia Western Community College
85	Local Advisory Board to the Wytheville Community College
86	Long-Term Care Council
87	Maternal and Child Health Council
88	Medical Advisory Board, Department of Motor Vehicles
89	Medical Board of the Virginia Retirement System
90	Migrant and Seasonal Farmworkers Board
91	Motor Vehicle Dealer's Advisory Board
92	Nottoway State Scenic River Advisory Board
93	Personnel Advisory Board
94	Plant Pollination Advisory Board
95	Private College Advisory Board
96	Private Enterprise Commission
97	Private Security Services Advisory Board
98	Psychiatric Advisory Board
99	Radiation Advisory Board
100	Rappahannock Scenic River Advisory Board
101	Recreational Fishing Advisory Board, Virginia
102	Reforestation Board
103	Retirement System Review Board
104	Rockfish State Scenic River Advisory Board
105	Shenandoah State Scenic River Advisory Board
106	Small Business Advisory Board
107	Small Business Environmental Compliance Advisory Board
108	St. Mary's Scenic River Advisory Committee
109	State Advisory Board on Air Pollution
110	State Advisory Board for the Virginia Employment Commission
111	State Building Code Technical Review Board
112	State Council on Local Debt
113	State Health Benefits Advisory Council
114	State Insurance Advisory Board
115	State Land Evaluation Advisory Council
116	State Networking Users Advisory Board
117	State Public Records Advisory Council
118	Statewide Independent Living Council
119	Statewide Rehabilitation Advisory Council
120	Statewide Rehabilitation Advisory Council for the Blind
121	Staunton Scenic River Advisory Committee

Telecommunications Relay Service Advisory Board  
 Tourism and Travel Services Advisory Board  
 Toxic Substances Advisory Board  
 Virginia Advisory Commission on Intergovernmental Relations  
 Virginia Advisory Council for Adult Education and Literacy  
 Virginia Coal Mine Safety Board  
 Virginia Coal Research and Development Advisory Board  
 Virginia Commission for the Arts  
 Virginia Commission on the Bicentennial of the United States Constitution  
 Virginia Correctional Enterprises Advisory Board  
 Virginia Council on Coordinating Prevention  
 Virginia Equal Employment Opportunity Council  
 Virginia Interagency Coordinating Council  
 Virginia Military Advisory Council  
 Virginia Public Buildings Board  
 Virginia Recycling Markets Development Council  
 Virginia Technology Council  
 Virginia Transplant Council  
 Virginia Water Resources Research Center, Statewide Advisory Board  
 Virginia Winegrowers Advisory Board.

#### CHAPTER 43.

#### VIRGINIA GOVERNMENT COMPETITION ACT OF 1995.

§ 9-334. Title.

*This chapter may be cited as the Virginia Government Competition Act of 1995.*

§ 9-335. Definitions.

*As used in this chapter, unless the context otherwise requires:*

"Council" means the Commonwealth Competition Council created in this chapter.

"Privatization" means a variety of techniques and activities which promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector.

"State agency" means any board, council, authority, department, agency, or institution of the Commonwealth which employs state or nonstate personnel.

§ 9-336. Commonwealth Competition Council created; duties.

*There is hereby created in the executive branch the Commonwealth Competition Council. The Council shall:*

1. Examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program, and advise the Governor, the General Assembly, and executive branch agencies of the Council's findings and recommendations.

2. Develop an institutional framework for a statewide competitive program to encourage innovation and competition within state government.

3. Establish a system to encourage the use of feasibility studies and innovation to determine where competition could reduce government costs without harming the public.

4. Monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship to compete with the private sector.

5. Advocate, develop and accelerate implementation of a competitive program for state entities to ensure competition for the provision or production of government services, or both, from both public and private sector entities.

6. Establish approval, planning, and reporting processes required to carry out the functions of the Council.

7. Determine the privatization potential of a program or activity; perform cost/benefit analyses; conduct public and private performance analyses; and certify the savings or revenues, if applicable, from increased competition with the private sector.

8. Devise evaluation criteria to be used in conducting performance reviews of any program or activity which is subject to a privatization recommendation.

9. To the extent practicable and to the extent that resources are available, make its services available for a fair compensation to any political subdivision of the Commonwealth.

§ 9-337. Membership; appointment; terms; vacancies; chairman; quorum; compensation.

A. The Council shall be composed of ten members to be appointed by the Governor and the General Assembly as follows: four employees of executive branch agencies shall be appointed by the Governor;

183 one member of the House of Delegates shall be appointed by the Speaker of the House; one member of  
184 the Senate shall be appointed by the Senate Committee on Privileges and Elections; two members of the  
185 private sector shall be appointed by the Governor; one member of the private sector shall be appointed  
186 by the Speaker of the House; and one member of the private sector shall be appointed by the Senate  
187 Committee on Privileges and Elections.

188 B. Two of the members who are employees of executive branch agencies and one member from the  
189 private sector appointed by the Governor shall be appointed for terms of one year. Two of the members  
190 who are employees of executive branch agencies and one member from the private sector appointed by  
191 the Governor shall be appointed for terms of two years. The four members appointed by the House of  
192 Delegates and the Senate shall be appointed for terms of three years. Thereafter each member of the  
193 Commission shall be appointed for terms of three years.

194 C. Appointments to fill vacancies shall be for the unexpired terms. No person shall be eligible to  
195 serve for or during more than two successive three-year terms. Any member appointed by virtue of his  
196 position shall serve only as long as he retains his position.

197 D. The Council shall elect its own chairman and vice chairman annually.

198 E. Six members of the Council shall constitute a quorum. No action shall be taken by the Council  
199 without the concurrence of at least six members.

200 F. Members of the Council shall serve without compensation but shall be reimbursed for actual  
201 expenses incurred in the performance of their duties.

202 § 9-338. Cooperation of other state agencies.

203 All agencies of the Commonwealth shall cooperate with the Council and, upon request, assist the  
204 Council in the performance of its duties and responsibilities.

205 § 9-339. Staff support; application for an acceptance of gifts and grants.

206 A. The Council shall employ such staff as necessary to enable it to perform its duties. It shall  
207 determine the duties, salaries and compensation of such staff with amounts appropriated for such  
208 purpose from funds in the Taxpayer Dividend Fund and appropriated for such purpose as provided in  
209 § 9-342.

210 B. The Council may apply for, accept, and expend gifts, grants, or donations from public or private  
211 sources to enable it to better carry out its objectives.

212 § 9-340. Unsolicited proposals.

213 The Council shall perform or have the authority to direct any state agency to perform a  
214 public/private performance analysis covering any service for which the Council has received a  
215 qualifying unsolicited proposal from a private entity which is consistent with the Council's purposes and  
216 duties as provided in § 9-336.

217 § 9-341. Public/private performance analysis.

218 A. The Council shall use the procurement methods cited in the Virginia Public Procurement Act  
219 (§ 11-35 et seq.) to solicit proposals and bids from private entities in order to make cost comparison  
220 decisions.

221 B. All state agencies are encouraged to compete for a contract to provide the public service by  
222 submitting its own proposal or bid.

223 § 9-342. Taxpayer Dividend Fund.

224 There is hereby established a special fund in the state treasury to be designated the "Taxpayer  
225 Dividend Fund" into which shall be transferred the amounts that are derived from the savings or  
226 revenues, if applicable, realized from either privatizing government activities or from the cost savings  
227 resulting from increased competition, as certified by the Council. Moneys shall be disbursed from the  
228 Fund as shall be provided from time to time in the appropriation act.

229 § 9-343. Productivity Improvement Revolving Fund.

230 There is hereby created a special fund in the state treasury to be designated the "Productivity  
231 Improvement Revolving Fund" which shall consist of any amounts transferred from the Taxpayer  
232 Dividend Fund as provided in the appropriation act. Such Fund shall be used to make loans to state  
233 agencies to improve technology and productivity. The Fund shall be administered and managed by the  
234 Council. The Council may establish the terms and conditions of any loan as it deems appropriate.

235 § 9-344. Reports to Governor and General Assembly.

236 The Council shall annually by December 1 report its findings and recommendations to the Governor  
237 and the General Assembly. The Council may make interim reports to the Governor and the General  
238 Assembly as it deems advisable.